

South Carolina:

Supreme Court January Term 1867

State vs Thomas Scott.

Pearson, Dr. J. The case has been a most horrid murder, & the public interest demands that the perpetrator of the crime should suffer death. But the public interest also demands, that the prisoners, if he be guilty, shall not be condemned unless his guilt can be proved according to the law of the land. The conversation between Mrs. Scott & the deceased ought not to have been admitted as evidence; at all events, no, but by the except that the deceased said she was going to the States [unclear]. Here, what the deceased said in regard to the person having come into her way, & where she was and that she intended to meet him, can only be considered a part of the act or the transaction being on her part more based back with a bundle of clothes in her hand & coming from her father's past at Scott's house where the witness met her in the walk, we are unable to perceive. The last question is testimony which is given to the jury to be subject to two tests of its truth. First, it must have the sanction of an oath. Second, There must be an opportunity of cross examination - dying declarations form an exception - and another exception is allowed where declarations constitute a part of the act, & its gesticulation consists not only of an action or thing being done, but of words.

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